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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,376	11/16/2006	Timothy J. Moulsley	GB 030205	9086

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
DEAN, RAYMOND S	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
02/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/554,376	MOULSLEY ET AL.	
	Examiner	Art Unit	
	RAYMOND S. DEAN	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 19, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 6 have been considered but are moot in view of the new ground(s) of rejection.

Hwang teaches in Figure 1B, Section 0007 that a DL_DCH slot, which is a portion, includes Data1, TPC (Transmit Power Control Command), TFCI, Data2, and Pilot. The pilot strength, which is a parameter of the DL_DCH slot, is measured for the purpose of downlink power control. Since the DL_DCH slot consists of the parameters Data1, TPC, TFCI, Data2 and Pilot, said parameters effectively modulate said DL_DCH slot. Hwang thus further reads on the limitations in question.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 – 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 3 use the word "adapted", which is not a positive limitation. The word "adapted" indicates the ability to perform or do something and opposed to actually performing or doing something.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 – 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hwang et al. (US 2002/0077141)

Regarding Claim 1, Hwang teaches a mobile station for use in a communication system having a base station (Figure 4, mobile station (UE, 411), base station (NODE B1, 401 or NODE B2, 403), the mobile station comprising: receiver means for receiving from the base station a first downlink signal (Figures 1B, 6, Sections 0007, 0152 lines 1 – 3, 0153, 0154, the downlink dedicated channel (DL_DCH) comprises the downlink signal); measurement means for measuring a parameter of a portion of the received first downlink signal (Figure 6, Sections 0007, 0010, 0155 lines 11 – 17, lines 23 – 31,

the dedicated channel pilot strength is a parameter of the downlink signal, See Also Response To Arguments above); power control means for generating first power control commands in response to the measured parameter (Sections 0067 lines 7 – 9, 0155 lines 23 – 31, transmission power control (TPC)); and transmitter means for transmitting the first power control commands to the base station (Section 0067 lines 7 – 9); wherein said portion of the received first downlink signal has been modulated with non-predetermined data values (Sections 0007, 0067 lines 7 - 9, 0155 lines 11 – 17, lines 23 – 31, the DL_DCH comprises a signal modulated with TPC values, which are non-predetermined data values, See Also Response To Arguments above).

Regarding Claim 6, Hwang teaches a method of operating a communication system comprising a base station and at least one mobile station (Figure 4, mobile station (UE, 411), base station (NODE B1, 401 or NODE B2, 403), comprising at the base station, receiving first power control commands transmitted by the mobile station (Sections 0067 lines 7 – 9, 0155 lines 23 – 31, transmission power control (TPC)) and transmitting a first downlink signal modulated with non-predetermined data values and subjected to transmit power control in accordance with the first power control commands (Sections 0007, 0067 lines 7 - 9, 0155 lines 11 – 17, lines 23 – 31, the downlink dedicated channel (DL_DCH) comprises the downlink signal, the DL_DCH comprises a signal modulated with TPC values, which are non-predetermined data values, See also Response To Arguments above), and at the mobile station, receiving the first downlink signal (Figure 6, Sections 0152 lines 1 – 3, 0153, 0154), measuring a parameter of a portion of the first downlink signal, said portion having been modulated

with the non-predetermined data values (Figure 6, Sections 0007, 0010, 0155 lines 11 – 17, lines 23 – 31, the dedicated channel pilot strength is a parameter of the downlink signal, See also Response To Arguments above), generating the first power control commands in response to the measured parameter, and transmitting the first power control commands (Sections 0067 lines 7 – 9, 0155 lines 23 – 31).

Regarding Claim 2, Hwang teaches all of the claimed limitations recited in Claim 1. Hwang further teaches wherein the receiver means is adapted to receive from the base station a second, non-power controlled downlink signal and to derive a channel estimate from the second downlink signal, and to employ the channel estimate to decode the first downlink signal (Section 0156 lines 7 – 14, the channel estimation provides phase shift information about the downlink signal which can aid in decoding said signal, the common pilot signal is used in order provide channel estimation, which leads to TPC generation, in order for said channel estimation and said TPC generation to occur said common pilot signal will need to be at a constant power level thus non-power controlled).

Regarding Claim 3, Hwang teaches all of the claimed limitations recited in Claim 1. Hwang further teaches wherein the power control means is adapted to decode the non-predetermined data values comprising second power control commands and to adjust the transmit power of the transmitter means in accordance with the decoded second power control commands (Sections 0155 lines 11 – 17, lines 23 – 31, TPC output from the DEMUX).

Regarding Claim 4, Hwang teaches all of the claimed limitations recited in Claim 1. Hwang further teaches a radio communication system comprising a base station (100) and at least one mobile station (Figure 4).

Regarding Claim 5, Hwang teaches all of the claimed limitations recited in Claim 4. Hwang further teaches the base station comprising a receiver means for receiving the first power control commands (Sections 0067 lines 7 – 9, 0155 lines 23 – 31) and a transmitter means for transmitting the first downlink signal modulated with non-predetermined data values and subjected to transmit power control in accordance with the first transmit power control commands (Sections 0007, 0067 lines 7 - 9, 0155 lines 11 – 17, lines 23 – 31, the downlink dedicated channel (DL_DCH) comprises the downlink signal, the DL_DCH comprises a signal modulated with TPC values, which are non-predetermined data values).

Regarding Claim 7, Hwang teaches all of the claimed limitations recited in Claim 6. Hwang further teaches at the base station, transmitting a second downlink signal at a constant power level, and at the mobile station, receiving the second signal, deriving a channel estimate from the second downlink signal, and employing the channel estimate to decode the first downlink signal (Section 0156 lines 7 – 14, the channel estimation provides phase shift information about the downlink signal which can aid in decoding said signal, the common pilot signal is used in order provide channel estimation, which leads to TPC generation, in order for said channel estimation and said TPC generation to occur said common pilot signal will need to be at a constant power level thus non-power controlled).

Regarding Claim 8, Hwang teaches all of the claimed limitations recited in Claim 6. Hwang further teaches at the base station, arranging for the non-predetermined data values to comprise second power control commands and, at the mobile station, decoding the second power control commands and adjusting the transmit power of the mobile station in accordance with the second power control commands (Sections 0155 lines 11 – 17, lines 23 – 31, TPC output from the DEMUX).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAYMOND S. DEAN whose telephone number is (571)272-7877. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond S Dean/
Examiner, Art Unit 2618
February 4, 2009